



4410-15

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Partial Consent Decree Under the Clean Air Act

On January 30, 2020, the Department of Justice lodged a partial consent decree (“Partial Consent Decree”) with the United States District Court for the Northern District of California in the lawsuit entitled *United States et al. v. Kohler Co.*, Civil Action No. C 20-00683.

The complaint in this case was filed against Defendant Kohler Co. (“Kohler”) concurrently with the lodging of the Partial Consent Decree and a separate consent decree to which Kohler and the People of the State of California, ex rel. California Air Resources Board (“CARB”) are parties (“State CD”). The complaint alleges that Kohler is liable for violations of Section 203 of the Clean Air Act (“Act”), 42 U.S.C. § 7522. The People of the State of California, ex rel. CARB also alleges in the complaint that Kohler is liable for violations of California law.

Together, the Partial Consent Decree and the State CD would fully address Kohler’s alleged manufacture and sale of millions of small, nonroad, nonhandheld, spark-ignition engines that did not conform to the certification applications Kohler submitted covering the engines. Some of these engines were also equipped with a fueling strategy that is alleged to have significantly reduced emissions of oxides of nitrogen (“NOx”) during certification testing when compared to real-world operation (commonly referred to as a “defeat device”). The United States and California seek civil penalties and injunctive relief for the violations jointly alleged in the complaint. Separately, the People of the State of California, ex rel. CARB seeks civil penalties and injunctive relief for alleged violations of California’s evaporative emissions standards.

The Partial Consent Decree is entered into by the United States, the People of the State of California, ex rel. CARB and Kohler. It would require Kohler to pay a \$20 million civil penalty for all violations alleged in the complaint except for the California evaporative emissions standards violations. The Partial Consent Decree would require Kohler to forfeit over three million kilograms of hydrocarbon plus nitrogen oxide (“HC + NOx”) emission credits, implement an emissions testing validation plan that includes third-party observation and emissions verification testing, conduct annual audits, implement corporate governance reforms, and conduct compliance training of its employees.

The publication of this notice opens a period for public comment on the proposed Partial Consent Decree. Comments on the Partial Consent Decree should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States et al. v. Kohler Co.*, D.J. Ref. No. 90-5-2-1-11892. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by e-mail or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By e-mail	pubcomment-ees.enrd@usdoj.gov
By mail	Assistant Attorney General U.S. DOJ – ENRD P.O. Box 7611 Washington, D.C. 20044-7611

During the public comment period, the Partial Consent Decree may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide a paper copy of the Partial Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library  
U.S. DOJ – ENRD  
P.O. Box 7611  
Washington, D.C. 20044-7611

Please enclose a check or money order for \$14.25 (25 cents per page reproduction cost) payable to the United States Treasury.

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